

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

John Francis Dykeman, Jr.,)	
)	C/A No. 02:06-1905-GRA-RSC
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	(Written Opinion)
Beaufort County Detention Center;)	
Phillip A. Foot, Director (BCDC);)	
Southern Health Partners, Inc.;)	
J. Dubose ¹ , Administrator (BCDC),)	
)	
Defendants.)	
_____)	

This matter is before the Court for review of the magistrate's Report and Recommendation made in accordance with 28 U.S.C. § 636(b)(1), and Local Rule 73.02(B)(2)(d), D.S.C., and filed on December 19, 2006. Petitioner filed this action on June 28, 2006, pursuant to 42 U.S.C. § 1983. On September 18, 2006, Defendants Southern Health Partners, Inc. and J. Dubose filed a motion for summary judgment. Defendants Beaufort County Detention Center and Phillip A. Foot filed a motion for summary judgment on October 25, 2006. Orders pursuant to *Roseboro v Garrison*, 528 F.2d 309 (4th Cir. 1975) were issued, and Plaintiff filed responses to

¹The magistrate's Report and Recommendation lists the fourth defendant as A. Campbell. However, pursuant to an Order filed on July 11, 2006, and signed by Magistrate Judge Carr, Defendant A. Campbell should be terminated from the docket sheet and replaced with Defendant J. Dubose. This caption reflects the change.

both motions for summary judgment. The magistrate now recommends granting the defendants' motions for summary judgment. The magistrate further recommends deeming this case a "strike" pursuant to 28 U.S.C. § 1915(g).

Plaintiff brings this claim *pro se*. This Court is required to construe *pro se* pleadings liberally. Such pleadings are held to a less stringent standard than those drafted by attorneys. *Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). This Court is charged with liberally construing a pleading filed by a *pro se* litigant to allow for the development of a potentially meritorious claim. *Boag v. MacDougall*, 454 U.S. 364, 365 (1982).

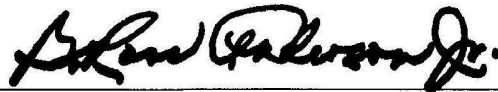
The magistrate makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). This Court may also "receive further evidence or recommit the matter to the magistrate with instructions." *Id.* In the absence of specific objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198 (4th Cir. 1983). No objections to the Report and Recommendation have been filed.

After a review of the record, this Court finds that the magistrate's Report and Recommendation accurately summarizes this case and the applicable law. Accordingly, the Report and Recommendation is accepted and adopted in its entirety.

IT IS THEREFORE ORDERED that Defendants' Motions for Summary Judgment be GRANTED and this case be DISMISSED.

IT IS FURTHER ORDERED that this case be deemed a "strike" for purposes of the "three strikes" rule of 28 U.S.C. § 1915(g).

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "G. Ross Anderson, Jr.", is written over a horizontal line.

G. ROSS ANDERSON, JR.
UNITED STATES DISTRICT JUDGE

January 26, 2007

Anderson, South Carolina

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this Order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure. Failure to meet this deadline, as modified within Rule 4, will waive the right to appeal.